

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RANDY JORDAN,)	
)	
Plaintiff)	
)	
v.)	Civil No. 98-0007-B
)	
HAWKER MANUFACTURING CO., et al.,)	
)	
Defendants)	

RECOMMENDED DECISION

Plaintiff moves to remand this matter to the Penobscot County Superior Court from which it was apparently removed by Notice of Removal filed January 12, 1998. Plaintiff asserts several grounds for remand, one of which is the failure of Defendant Hartford Fire Insurance Company ["HARTFORD"] to join in, or consent to, the removal.¹

Defendants object to Plaintiff's argument regarding Defendant Hartford's joinder by submitting the affidavit of Julie D. Farr, Esq., counsel of record for Defendant Hartford. Ms. Farr indicates that she discussed the question whether this action should be removed with counsel for Defendants Hawker Manufacturing Company and Hawker Dayton Corporation ["HAWKER DEFENDANTS"], and they agreed the Hawker Defendants would file a Notice of Removal on behalf of all Defendants.

It is irrelevant that the Notice of Removal does not indicate Hartford's intent to be included in the removal. It has long been the law that the removal provisions are to be strictly construed to

¹ The other grounds warrant little discussion. For example, Plaintiff argues the matter is not removable under 28 U.S.C. § 1441(c), when the matter was actually removed under section 1441(b). In addition, Plaintiff asserts that the case involves several issues which would "require" certification to the Maine Law Court, one of which is purely a question of fact.

ensure that federal courts "scrupulously confine their own jurisdiction to the precise limits which the statute has defined." *Shamrock Oil & Gas v. Sheets*, 313 U.S. 100, 109 (1941) (quoting *Healy v. Ratta*, 292 U.S. 263, 270 (1940)) (other citations omitted). In that spirit, courts routinely hold that it is insufficient for one defendant to indicate another's consent to removal. *Eg.*, *Anne Arundel County v. United Pac. Ins.*, 905 F. Supp. 277 (D. Md. 1995) (extended discussion of cases rejecting informal consents). In short, "[c]ourts have required defendants to file some written documentation of their intent to join in another defendant's removal petition." *Id.* at 278 (citation omitted). Defendant Hartford did not do so in this case within the 30-day period provided under 28 U.S.C. section 1446(b). *Hill v. Phillips, Barratt, Kaiser Eng.*, 586 F. Supp. 944 (D. Me. 1984). Accordingly, I hereby recommend Plaintiff's Motion to Remand be GRANTED.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

Eugene W. Beaulieu
United States Magistrate Judge

Dated on April 30, 1998.